IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.7948 OF 2003

Shri Bapu Vithu Patil, .. Petitioner

Vs

1. Shripatil Dnyanu Patil,
deceased through his L.Rs
1A Smt Valubai Dnyanu Patil, since
deceased through heirs
1A-1 Smt Tanubai Dnyanu Patil
and ors. .. Respondents

Mr. N.V.Bandiwadekar, for the petitioner.

Mr Pratap Patil, for respondent nos 1-B to 1-F.

CORAM : D.B.BHOSALE,J.

DATE : 30th November, 2004.

PC:

1. Rule. Rule returnable forthwith. Mr.Patil, learned counsel, waives service for the respondents. By consent, the petition is heard finally.

2. This petition is directed against the judgment and order dated 15.1.2001 passed by the Maharashtra Revenue Tribunal, Kolhapur, (for short,"MRT") in the Revision Application filed by the petitioner. The revision was

filed challenging the order dated 26.3.1993 passed by the Sub Divisional Officer, Walva Division, Islampur in Tenancy Appeal No.50 of 1986. The appeal filed before the Sub Divisional Officer arose out of the order passed by the ALT dated 29.9.1986 in the application filed by the petitioner under section 70(b) of the Bombay Tenancy & Agricultural Lands Act seeking declaration that he is a tenant in the land in question. The MRT dismissed the revision exparte. It appears that the intimation of the date of hearing was sent to the petitioner and it was returned unserved with the remarks "Not residing at the address". However, that does not seem to be correct. The petitioner has categorically stated that he is a resident of the same address which is on record.

3. After having heard the learned counsel for the parties and perused the impugned judgment passed by the MRT, it is clear that the MRT has decided the revision on merits in the absence of the petitioner. Mr.Patil, learned counsel for the respondents, has not controverted the statement made by the petitioner in the petition that their address has not changed. Considering that and keeping in view the overall facts and circumstances of the case, in my opinion, interest of justice would be served by the following order.

(i) The writ petition is allowed. The judgment and order dated 15.1.2001 is quashed and set aside and the Revision is restored to file. The revisional authority shall decide the revision on merits in accordance with law expeditiously.

(ii) All contentions on merits are left open.

(D.B.BHOSALE, J.)